

- 715 (iii) Is 65 years of age or older during any part of the year.
- 716 (E) For the purposes of this paragraph, retirement income shall include but not be
- 717 limited to interest income, dividend income, net income from rental property, capital
- 718 gains income, income from royalties, income from pensions and annuities, and no more
- 719 than \$4,000.00 of an individual's earned income. Earned income in excess of
- 720 \$4,000.00, including but not limited to net business income earned by an individual
- 721 from any trade or business carried on by such individual, wages, salaries, tips, and other
- 722 employer compensation, shall not be regarded as retirement income. The receipt of
- 723 earned income shall not diminish any taxpayer's eligibility for the retirement income
- 724 exclusions allowed by this paragraph except to the extent of the express limitation
- 725 provided in this subparagraph.
- 726 (F) The commissioner shall by regulation require proof of the eligibility of the taxpayer
- 727 for the exclusions allowed by this paragraph.
- 728 (G) The commissioner shall by regulation provide that for taxable years beginning on
- 729 or after January 1, 1989, and ending before October 1, 1990, penalty and interest may
- 730 be waived or reduced for any taxpayer whose estimated tax payments and tax
- 731 withholdings are less than 70 percent of such taxpayer's Georgia income tax liability
- 732 if the commissioner determines that such underpayment or deficiency is due to an
- 733 increase in net taxable income attributable directly to amendments to this paragraph or
- 734 paragraph (4) of this subsection enacted at the 1989 special session of the General
- 735 Assembly and not due to willful neglect or fraud;"

736 **PART III**

737 **SECTION 3-1.**

738 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is

739 amended by revising Code Section 48-7-29.12, relating to tax credits for qualified donation

740 of real property, carryover of credit, appraisals, transfer of credit, and penalty, as follows:

741 "48-7-29.12.

742 (a) As used in this Code section, the term:

- 743 (1) 'Conservation easement' means a nonpossessory interest in real property imposing
- 744 limitations or affirmative obligations, the purposes of which are consistent with at least
- 745 two conservation purposes.
- 746 (2) 'Conservation purpose' means any of the following:
- 747 (A) Water quality protection for wetlands, rivers, streams, or lakes;
- 748 (B) Protection of wildlife habitat consistent with state wildlife conservation policies;
- 749 (C) Protection of outdoor recreation consistent with state outdoor recreation policies;
- 750 (D) Protection of prime agricultural or forestry lands; and

751 (E) Protection of cultural sites, heritage corridors, or archeological and historic
 752 resources.

753 (3) 'Donated property' means the real property of which a qualified donation is made
 754 pursuant to this Code section.

755 (4) 'Eligible donor' means any person who owns an interest in a qualified donation.

756 (5) 'Fair market value' means the value of the donated property established by a property
 757 appraisal or appraisals meeting the requirements of Section 170 of Title 26 of the United
 758 States Code, to be submitted in such manner as the commissioner may by regulation
 759 require as determined pursuant to subsections (c.1) and (c.2) of this Code section.

760 (2)(6) 'Qualified donation' means the fee simple conveyance to the state; a county, a
 761 municipality, or a consolidated government of this state; to the federal government; or a
 762 bona fide charitable nonprofit organization qualified under the Internal Revenue Code
 763 and, beginning on January 1, 2014, accredited by the Land Trust Accreditation
 764 Commission of 100 percent of all right, title, and interest in the entire parcel of donated
 765 real property, which and the donation is accepted by such state, county, municipality,
 766 consolidated government, federal government, or bona fide charitable nonprofit
 767 organization for use in a manner consistent with at least two conservation purposes. Such
 768 term shall also include the donation to and acceptance by the state; a county, a
 769 municipality, or a consolidated government of this state; to the federal government; or a
 770 bona fide charitable nonprofit organization qualified under the Internal Revenue Code
 771 and, beginning on January 1, 2014, accredited by the Land Trust Accreditation
 772 Commission of an interest in real property which qualifies as a conservation easement
 773 under paragraph (4) of Code Section 12-6A-2. Any real property which is otherwise
 774 required to be dedicated pursuant to local government regulations or ordinances or to
 775 increase building density levels shall not be eligible as a qualified donation under this
 776 Code section. Any real property which is used for or associated with the playing of golf
 777 or is planned to be so used or associated shall not be eligible as a qualified donation under
 778 this Code section.

779 (3) 'Eligible donor' means any person who owns an interest in a qualified donation.

780 (4)(7) 'Related person' has the meaning provided by Code Section 48-7-28.3.

781 (5)(8) 'Substantial valuation misstatement' means a valuation such that the claimed value
 782 of any property claimed on any return of tax imposed under this chapter, or on any claim
 783 for refund of such tax, on the appraisal as submitted to the State Properties Commission
 784 is 150 percent or more of the amount determined to be the correct amount of such
 785 valuation pursuant to subsections (c.1) and (c.2) of this Code section.

786 (b)(1) A taxpayer shall be allowed a state income tax credit against the tax imposed by
787 Code Section 48-7-20 or Code Section 48-7-21 for each qualified donation ~~of real~~
788 ~~property for conservation purposes under this Code section.~~

789 (2) Except as otherwise provided in paragraph (3) of this subsection and in subsection
790 (d) of this Code section, such credit shall be limited to an amount not to exceed the lesser
791 of \$500,000.00, 25 percent of the fair market value of the donated real property as fair
792 market value is established for the year in which the donation occurred, or 25 percent of
793 the difference between the fair market value and the amount paid to the donor if the
794 donation is effected by a sale of property for less than fair market value as established for
795 the year in which the donation occurred.

796 (3) Except as otherwise provided in subsection (d) of this Code section, in the case of a
797 taxpayer whose net income is determined under Code Section 48-7-23, the aggregate total
798 credit allowed to all partners in a partnership shall be limited to an amount not to exceed
799 the lesser of ~~\$1 million~~ \$500,000.00, 25 percent of the fair market value of the donated
800 real property as fair market value is established for the year in which the donation
801 occurred, or 25 percent of the difference between the fair market value and the amount
802 paid to the donor if the donation is effected by a sale of property for less than fair market
803 value as established for the year in which the donation occurred.

804 (c) No tax credit shall be allowed under this Code section unless the taxpayer files with
805 the taxpayer's income tax return a copy of the State Property Commission's determination
806 and a copy of a certification issued by the Department of Natural Resources that the
807 donated property is suitable for conservation purposes: and meets the following additional
808 requirements, where applicable:

809 (1) Subdivision is prohibited for a donated property of less than 500 acres and limited
810 to one subdivision for a donated property of 500 acres or more;

811 (2) New construction on donated property of structures, roads, impoundments, ditches,
812 dumping, or any other activity that would harm the protected conservation values of such
813 donation is prohibited on such property;

814 (3) New construction on donated property within 150 feet of any perennial or
815 intermittent stream is prohibited;

816 (4) A buffer of at least 100 feet on each side of any perennial streams on donated
817 property which ensures at least 75 percent tree canopy evenly distributed after harvest is
818 maintained and a buffer of at least 50 feet on each side of any intermittent streams on
819 donated property which ensures at least 75 percent tree canopy evenly distributed after
820 harvest is maintained;

821 (5) Timber and agricultural activities undertaken on the donated property are prohibited
 822 unless in accordance with best management practices published by the State Forestry
 823 Commission or the Soil and Water Conservation Commission, as the case may be;
 824 (6) New construction on donated property causing more than 1 percent of such property's
 825 total surface area to be covered by impervious surfaces is prohibited;
 826 (7) Mining on the property is prohibited; and
 827 (8) Planting on the donated property of non-native invasive species listed in Category 1,
 828 Category 1 Alert, or Category 2 of the 'List of Non-Native Invasive Plants in Georgia'
 829 developed by the Georgia Exotic Pest Council is prohibited.
 830 ~~The Board of Natural Resources shall promulgate any rules and regulations necessary to~~
 831 ~~implement and administer this subsection, including, but not limited to, policies to guide~~
 832 ~~the determination of whether or not donated property is suitable for conservation purposes.~~
 833 ~~A final determination by the Department of Natural Resources with respect to the~~
 834 ~~suitability of donated property for conservation purposes shall be subject to review and~~
 835 ~~appeal under Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.'~~
 836 (c.1) For each application for certification, the Department of Natural Resources shall
 837 require submission of an appraisal of the qualified donation by the taxpayer along with a
 838 nonrefundable \$5,000.00 application fee; provided, however, that the nonrefundable
 839 application fee for property donated to the state shall be 1 percent of the total value of the
 840 donation, unless such donation is being made to qualify the state for a federal or state grant.
 841 The appraisal required by this subsection shall be a full narrative appraisal and include:
 842 (1) A certification page, as established by the Uniform Standards of Professional
 843 Appraisal Practice, signed by the appraiser; and
 844 (2) An affidavit signed by the appraiser which includes a statement specifying:
 845 (A) The value of the unencumbered property, the total value of the qualified donation
 846 in gross, and an accompanying statement identifying the methods used to determine
 847 such values;
 848 (B) Whether a subdivision analysis was used in the appraisal;
 849 (C) Whether the landowner or related persons own any other property, the value of
 850 which is increased as a result of the donation; and
 851 (D) That the appraiser is certified pursuant to Chapter 39A of Title 43.
 852 Appraisals received by the Department of Natural Resources shall be forwarded to the State
 853 Properties Commission for review. The State Properties Commission shall approve the
 854 appraisal amount submitted or recommend a lower amount based on its review and inform
 855 the Department of Natural Resources of its determination. The State Properties
 856 Commission shall be authorized to promulgate any rules and regulations necessary to
 857 administer the provisions of this subsection. Any appraisal deemed to contain a substantial

858 valuation misstatement shall be submitted to the Georgia Real Estate Commission for
859 further investigation and disciplinary action. Upon receipt of the State Properties
860 Commission's determination, the Department of Natural Resources may proceed with the
861 certification process.

862 (c.2) The Board of Natural Resources shall promulgate any rules and regulations necessary
863 to implement and administer subsections (c) and (c.1) of this Code section. A final
864 determination by the Department of Natural Resources or the State Properties Commission
865 shall be subject to review and appeal under Chapter 13 of Title 50, the 'Georgia
866 Administrative Procedure Act.'

867 (d)(1) In no event shall the total amount of any tax credit under this Code section for a
868 taxable year exceed the taxpayer's income tax liability. In no event shall the total amount
869 of the tax credit allowed to a taxpayer under subsection (b) of this Code section exceed
870 \$250,000.00 with respect to tax liability determined under Code Section 48-7-20 or
871 \$500,000.00 with respect to tax liability determined under Code Section 48-7-21. Any
872 unused tax credit shall be allowed to be carried forward to apply to the taxpayer's
873 succeeding ten years' tax liability. However, the amount in excess of such annual dollar
874 limits shall not be eligible for carryover to the taxpayer's succeeding years' tax liability
875 nor shall such excess amount be claimed by or reallocated to any other taxpayer. No such
876 tax credit shall be allowed the taxpayer against prior years' tax liability.

877 (2) Only one qualified donation may be made with respect to any real property that was,
878 in the ~~year~~ five years prior to donation, within the same tax parcel of record, except that
879 a subsequent donation may be made by a person who is not a related person with respect
880 to any prior eligible donors of any portion of such tax parcel.

881 (d.1) Any tax credits under this Code section earned by a taxpayer in the taxable years
882 beginning on or after January 1, 2013, and previously claimed but not used by such
883 taxpayer against such taxpayer's income tax may be transferred or sold in whole or in part
884 by such taxpayer to another Georgia taxpayer, subject to the following conditions:

885 (1) The transferor may make only a single transfer or sale of tax credits earned in a
886 taxable year; however, the transfer or sale may involve one or more transferees;

887 ~~(1)~~(2) The transferor shall submit to the department a written notification of any transfer
888 or sale of tax credits within 30 days after the transfer or sale of such tax credits. The
889 notification shall include such transferor's tax credit balance prior to transfer, the
890 remaining balance after transfer, all tax identification numbers for each transferee, the
891 date of transfer, the amount transferred, and any other information required by the
892 department;

893 ~~(2)~~(3) Failure to comply with this subsection shall result in the disallowance of the tax
894 credit until the taxpayer is in full compliance;

895 ~~(3)(4)~~ In no event shall the amount of the tax credit under this subsection claimed and
 896 allowed for a taxable year exceed the transferee's income tax liability. Any unused credit
 897 may be carried forward to subsequent taxable years provided that the transfer or sale of
 898 this tax credit does not extend the time in which such tax credit can be used. The
 899 carry-forward period for tax credit that is transferred or sold shall begin on the date on
 900 which the tax credit was originally earned; and

901 ~~(4)(5)~~ A transferee shall have only such rights to claim and use the tax credit that were
 902 available to the transferor at the time of the transfer. To the extent that such transferor
 903 did not have rights to claim and use the tax credit at the time of the transfer, the
 904 department shall either disallow the tax credit claimed by the transferee or recapture the
 905 tax credit from the transferee. The transferee's recourse is against the transferor.

906 (e)(1) Whenever:

907 (A) Any person prepares an appraisal of the value of property and knows, or
 908 reasonably should have known, that the appraisal would be used in connection with a
 909 return or a claim for refund claiming a tax credit under this Code section; and

910 (B) The claimed value of the property ~~on a return or claim for refund which is based~~
 911 on such appraisal as submitted to the State Properties Commission results in a
 912 substantial valuation misstatement with respect to such property for purposes of
 913 claiming a tax credit under this Code section,

914 then such person shall pay a penalty in the amount determined under paragraph (2) of this
 915 subsection.

916 (2) The amount of the penalty imposed under paragraph (1) of this subsection on any
 917 person with respect to an appraisal shall be equal to the lesser of:

918 (A) The greater of:

919 (i) Twenty-five percent of the difference between the amount of the tax credit
 920 claimed on the taxpayer's return or claim for refund and the amount of the tax credit
 921 to which the taxpayer is actually entitled, to the extent the difference is attributable
 922 to the misstatement described in ~~subparagraph (c)(1)(B) of this Code section~~
 923 paragraph (1) of this subsection; or

924 (ii) ~~One~~ Ten thousand dollars; or

925 (B) One hundred twenty-five percent of the gross income received by the person
 926 described in ~~subparagraph (c)(1)(A) of this Code section~~ paragraph (1) of this
 927 subsection for the preparation of the appraisal.

928 (3) No penalty shall be imposed under paragraph (1) of this subsection if the person
 929 establishes to the satisfaction of the commissioner that the value established in the
 930 appraisal was more likely than not the proper value.

931 (4) Except as otherwise provided, the penalty provided by this subsection shall be in
 932 addition to any other penalties provided by law. The amount of any penalty under this
 933 subsection shall be assessed within three years after the return or claim for refund with
 934 respect to which the penalty is assessed was filed, and no proceeding in court without
 935 assessment for the collection of such penalty shall be begun after the expiration of such
 936 period. Any claim for refund of an overpayment of the penalty assessed under this
 937 subsection shall be filed within three years from the time the penalty was paid.
 938 (f) No credit shall be allowed under this Code section with respect to any amount deducted
 939 from taxable net income by the taxpayer as a charitable contribution.
 940 (g) The commissioner shall promulgate any rules and regulations necessary to implement
 941 and administer this Code section."

942 **SECTION 3-2.**

943 Title 44 of the Official Code of Georgia Annotated, relating to property, is amended by
 944 adding a new subsection to Code Section 44-10-3, relating to the creation or alteration of
 945 conservation easements, as follows:

946 "(f) No county, municipality, or consolidated government shall hold a conservation
 947 easement unless the encumbered real property lies at least partly within the jurisdictional
 948 boundaries of such county, municipality, or consolidated government."

949 **PART IV**

950 **SECTION 4-1.**

951 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
 952 amended by revising paragraph (73) of Code Section 48-8-3, relating to exemptions from
 953 sales and use tax, as follows:

954 ~~"(73)(A) The sale or lease of production equipment or production services for use in this~~
 955 ~~state by a certified film producer or certified film production company for qualified~~
 956 ~~production activities.~~

957 ~~(B) As used in this paragraph, the term:~~

958 ~~(i) 'Film producer' means any person engaged in the business of organizing and~~
 959 ~~supervising qualified production activities.~~

960 ~~(ii) 'Film production company' means any company that employs one or more film~~
 961 ~~producers and whose goal is to engage in film production activity.~~

962 ~~(iii) 'Production equipment' means items purchased or leased for use exclusively in~~
 963 ~~qualified production activities in Georgia, including, but not limited to, cameras,~~
 964 ~~camera supplies, camera accessories, lighting equipment, cables, wires, generators,~~
 965 ~~motion picture film and videotape stock, cranes, booms, dollies, and teleprompters.~~